



United States Department of the Interior

U. S. FISH AND WILDLIFE SERVICE

7915 BAYMEADOWS WAY, SUITE 200
JACKSONVILLE, FLORIDA 32256-7517

IN REPLY REFER TO:

September 11, 2012

Mr. Thomas Huger, Manager
Facilities Construction and Maintenance Division
City of Daytona Beach
950 Bellevue Avenue
Daytona Beach, Florida 32214

Dear Mr. Huger:

Our office has been contacted by Volusia County regarding the City's emergency efforts to remove its Space Needle attraction at the Daytona Beach Pier due to that structure's deteriorated condition and the hazard it poses to life and property. It is our understanding that the demolition work, which requires numerous vehicles to be on beach, began last evening, and is expected to continue for the next two to three days. It is scheduled only at night between the hours of midnight and 7:00 am. The City is restricting access to a portion of the impacted area during the day, but still allowing pedestrian access to most of the pier, its restaurant, and the adjoining beach.

The U.S. Fish and Wildlife (Service) understands the need to correct the unsafe situation. However, under the Volusia County Habitat Conservation Plan and Incidental Take Permit, issued by the Service and covering the above action, such vehicular beach access requires County authorization following review and approval, if deemed appropriate, by our agency. The City lacks that authorization, and as a result can be held liable under the Endangered Species Act (Act) (16 U.S.C. § 1538 (a) (1) (B)) for any adverse effects to sea turtles and other federally listed species covered under the permit, and that results from the presence of vehicles and associated equipment on the beach.

In order to avoid potential civil and criminal liability under the Act, we recommend the City contact our office immediately to discuss this issue further, and obtain the required approval through Volusia County. In the interim, we recommend that the City cease its demolition work, and establish a no-access safety zone around the Space Needle in order to protect life, property, and potential adverse impacts to Federal Trust Resources.

Our office point of contact is Mr. John Milio. He can be reached at the address on the letterhead, by email, john_milio@fws.gov, or by calling (904) 731-3098. We are committed to working with the City, County, and other relevant authorities to quickly and effectively resolve this issue.

Sincerely,



David L. Hankla
Field Supervisor

cc:

Roger Register, LE FWS
Office of Law Enforcement
1339 20th Street
Vero Beach, FL 32960

Robbin Trindell
Florida Fish and Wildlife Conservation Commission
Imperiled Species Management
620 South Meridian Street, MS#6A
Tallahassee, FL 32399

Ginger Adair/Jamie Seaman
County of Volusia
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Deland, Florida 32720